

Legal Notice of Hierarchy of Constitutional Law on Constitutionality of Administrative procedures & why administrative tribunals are Unconstitutional

The Constitution, constitutional interpretation, and constitutional law is inseparable from norms and principles. According to the scientific legal doctrine principles show a high degree of generality being fundamental provisions that are consolidated in the Constitution and determine the direction of the overall legal regulation.

According to the extent to which the constitutional principles & constitutional law orient the legal system they may be divided into coordinating and determining principles. The first orient not only the statutory law as Constitutional Law overrules statutory law which in turn overrules administrative regulations which finally overrules local codes and ordinances. However, it also helps set the Constitution itself to settle it into an integral act (for example, the supremacy of the Constitution, the integrity of the Constitution, and the rule of law). The hierarchy of law in our system is relatively simple.

These limitations stem from the overall constitutional regulation. They are designed to defend the universal values upon which the Constitution, as supreme law and as a social contract, and the state, as the common good of the entire society, are based, as well as to protect the harmony of these values and the harmony of the provisions of the Constitution. The substantive limitations are composed of two groups: absolute limitations comprising so called “eternal clauses” and relative limitations.

1st. The Concept and types of eternity clauses

Absolute limitations on the alteration of the constitution also can be characterized as eternity clauses. They can be defined as constitutional provisions or constitutional principles that are immune from amendment and function as barriers or “stop lines” to constitutional amendment. Any amendment violating those clauses would be unconstitutional in itself and, as such, would be invalid. As it was mentioned, such unamendable or “eternal” clauses may be either explicitly included in the text of the constitution, or implicit, which are identified through the process of interpreting the constitution by constitutional courts or other institutions exercising constitutional review. Although the content of explicit unamendable provisions in different states varies, but despite some minor exceptions, one can identify several common groups of components:) form and system of government;) state’s political or governmental structure;) state’s fundamental ideology or “identity”;) basic rights;) state’s integrity;) other provisions, unique constitutional subjects (for example, immunities, amnesties, reconciliation and peace agreements, taxation or rules governing nationality). Thus, comparative law reveals that eternity clauses are related to two types of values, relevant to the nation’s constitutional identity. The first group is universal values, such as a Constitutional Republic, natural and unalienable human rights and the rule of law. Another group is particularistic values, reflecting such particular features of a nation’s constitutional identity as federalism, the role of believers in God in a given society, or certain principles concerning the separation of powers.

2nd. The other question which arises from this - if we have such hierarchy, and Constitutional Courts who can ensure that this hierarchy and the order of Constitutional Courts are preserved that proceed according to this hierarchy?

It is only logical to presume that such institutions are Constitutional Courts or equivalent institutions, but what can be done when the alleged administrative tribunals are not provided explicitly with the powers to review the constitutionality and is not authorized to consider or question the constitutionality of a legislative act or to declare unconstitutional statutes which it was created to administer and enforce?

Therefore, this presentation aims to provide possible hierarchy of constitutional principles as it could be understood on administrative tribunals and according to this hierarchy, to reveal the doctrine on Un-constitutionality of the constitutional question of administrative tribunals; which are in fact barred, & may not determine constitutional issues. Moreover, the general rule is that as a part of the executive branch of government, an administrative tribunal is not a court; it is not a part of the judicial branch of government, for purposes of the separation of powers doctrine. See: 16 Am. Jur. § 257. Limitations as respects judiciary Actions of administrative agencies

As a part of the executive branch of government, an administrative tribunal is not a court; it is not a part of the judicial branch of government, for purposes of the separation of powers doctrine. [7] And as a general rule, administrative agencies have no general judicial powers. [8] Thus, an administrative agency does not have the power, with-out statutory authority, to overrule or ignore a judicial precedent. [9] Moreover, the general rule is that an administrative agency may not determine constitutional issues, and is not authorized to consider or question the constitutionality of a legislative act or to declare unconstitutional statutes which it was created to administer and enforce.

The State of Indiana has engaged in fraudulent inducement, into making me believe: i was in a Court, then forced me into administrative tribunal that fraudulently concealed, it is not a Court; this deprives me & the people of Indiana, of our day in court under fraudulent inducement, fraudulent concealment, and a constructive fraud.

Further, by being lied to and fraudulent induced, into believing i was in a Court, then forced into administrative tribunal that fraudulently concealed, it is not a court; we the people of Indiana are being denied our day in court & this deprives the people of Indiana of our due process rights. Additionally, the people of Indiana are being denied the guaranty of the rights and immunities of a citizen that insures to him or her the privilege of having those rights and immunities judicially declared and protected under a constructive fraud. See: 16A C.J.S. Constitutional Law § 1207. Fourteenth Amendment Corpus Juris Secundum 2021. Because, an administrative tribunal may not determine constitutional issues.

Since such administrative tribunals are not Courts; it is not a part of the judicial branch of government it is without persona jurisdiction to preside over the American People who have the guaranty of the rights and immunities of a citizen that insures to him or her the privilege of having those rights and immunities judicially declared and protected. See: 16A C.J.S. Constitutional Law § 1207. Fourteenth Amendment Corpus Juris Secundum 2021.

Additionally, upon creation of such administrative tribunals, the people would be denied the guaranty of the rights and immunities of a citizen that insures to him or her the Right/privilege of having those rights and immunities judicially declared and protected. See: 16A C.J.S. Constitutional Law § 1207. Fourteenth Amendment Corpus Juris Secundum 2021 Right/privilege meaning: a moral or legal entitlement to have or obtain something or to act in a certain way.

Because, an administrative tribunal may not determine constitutional issues, & as a part of the executive branch of government, an administrative tribunal is not a court; it is not a part of the judicial branch of government, for purposes of the separation of powers doctrine. Leaving the People deprived of having their rights and immunities being judicially declared and protected. **As declared by** 16A C.J.S. Constitutional Law § 1207.

Furthermore, since a judge ceases to sit as a judicial officer because the governing principals of administrative law provides that courts are prohibited from substituting their evidence, testimony, record, arguments and rationale for that of the agency. Additionally, courts are prohibited from their substituting their judgments for that of the agency." American Iron and Steel v. United States, 568 F.2d 284.

Indiana Code 4-15-10.5-3 "Administrative law judge" Sec. 3. declares an "administrative law judge" means an individual who presides over an administrative proceeding. How is the State of Indiana giving an "administrative law judge" who is just an individual who presides over an administrative proceeding and is not a judge the power to jail anyone? Incarceration is a Judicial power that cannot be exercised by an administrative tribunal of the executive branch of Government.

This all means an administrative agency becomes the trier of fact in its own complaint. In other words, your deemed guilty by the decision of administrative agency to file its complaint, as the ALJ has become an officer of the complaining Agency and cannot substitute their judgments for that of the agency. This eliminates, and makes one being innocent until proven guilty null and void.

When one is summonsed to such an administrative tribunal with paperwork declaring one must appear in Court by an ALJ who isn't a judicial officer, and the administrative tribunal is not a Court. Wouldn't this show the State of Indiana has engaged in fraudulent inducement, by making me believe: i was in a Court, in front of a judge, instead of an administrative tribunal that fraudulently concealed, it is not a Court and the "administrative law judge" that fraudulently concealed, their just an individual who isn't a judge? Doesn't this deprive me & the people of Indiana, of our rights and immunities being judicially declared and protected, and our day in court under fraudulent inducement, fraudulent concealment, and a constructive fraud?

Wouldn't this also mean the creation of such administrative tribunals is an unconstitutional fraud and "unconscionable" act in its creation?

57A Am. Jur. 2d, Negligence § 790, p. 701 (1989) ("The intervention, between the negligence of the defendant and the occurrence of an injury to the plaintiff, of a new, independent, and efficient cause, or of a superseding cause, of the injury renders the negligence of the defendant a remote cause of the injury, and he cannot be held liable, notwithstanding the existence of some connection between his negligence and the injury").

The State of Indiana's Negligence has caused loss of property through this fraudulent inducement, fraudulent concealment, and constructive fraud it promulgated against me. Leaving the State of Indiana's Negligent-Actions of, failing to properly inform me an administrative tribunal is not a court; it is not a part of the judicial branch of government, for purposes of the separation of powers doctrine, & may not determine constitutional issues. To ensure the privilege of having those rights and immunities judicially declared and protected.

This also violates State and Federal Constitution because they give administrative tribunals orders the same weight as a Court Order and declare it to be a Court Order; even though 16 Am. Jur. § 257. Limitations as respects judiciary — Actions of administrative agencies. States: an administrative tribunal is not a court; it is not a part of the judicial branch of government, for purposes of the separation of powers doctrine. This is completely illogical to declare an administrative tribunals order that is not a court; the same as a Court Order that you can now be punished for ignoring. This claim is tainted with unconscionability "unconscionable" bargain or belief; has been regarded as one "such as no [person] in his [or her] senses and not under delusion would make on the one hand, and as no honest and fair [person] would accept on the other" (Hume v United States, 132 U.S. 406, 411)

Since, an administrative tribunal is not a court; is not a part of the judicial branch of government, for purposes of the separation of powers doctrine. The legislature cannot confer upon ministerial agencies the power to punish contempt of an Administrative Tribunals Orders. Ind. Const. art. III, § 1; see generally Isaac v. State, 605 N.E.2d at 146. Fox v. State, 497 N.E.2d 221, 227 (Ind. 1986). See also Brannum v. State, 267 Ind. 51, 57, 366 N.E.2d 1180, 1182 (1977). Langenberg v. Decker, 131 Ind. 471, 31 N.E. 190, 1892 Ind. LEXIS 213 (Ind. 1892).

37 Am Jur 2d at section 8 "Fraud vitiates every transaction and all contracts. Indeed, the principle is often stated, in broad and sweeping language, that fraud destroys the validity of everything into which it enters, and that it vitiates the most solemn contracts, documents, and even judgments."

To assert fraud, the defendant "must present evidence tending to show (1) a false representation or concealment of a material fact, (2) reasonably calculated to deceive, (3) made with intent to deceive, (4) which does in fact deceive, (5) which was relied upon and which resulted in damages to the injured party." 16 Am Jur 2d Conspiracy § 68 17 Am Jur 2d Contracts § 350 22 Am Jur 2d Damages § 831 37 Am Jur 2d Fraud and Deceit § 223 61A Am Jur 2d Pleading § 236

This also violates the authority given in the State and Federal Constitutions; to Create: "Courts and such Tribunals" the words "and such Tribunals" could only have referred back to the creation of Constitutional Courts, that could determine constitutional issues.

Not of an administrative tribunal that is not a court; that may not determine constitutional issues, and is not authorized to consider or question the constitutionality of a legislative act or to declare unconstitutional, statutes which it was created to administer, including challenges to jurisdiction, as it is a Constitutional issue.

The U.S. Supreme Court Alleges: Jurisdiction with which territorial courts /administrative tribunals of Indiana are invested is not part of judicial power which is defined by Art. III, but is conferred by Congress under Art. IV, § 3, cl. 2. American Ins. Co. v 356 Bales of Cotton (1828) 26 US 511, 1 Pet 511, 7 L Ed 242.

How can any logical sein and rational person believe Art. IV, § 3, cl. 2. Of the U.S. Constitution allowed for the creation of such administrative tribunals that is not a Court; is not a part of the judicial branch of government, and that may not determine constitutional issues; to ensure the privilege of having those rights and immunities judicially declared and protected?

This U.S. Supreme Court Ruling about Art. IV, § 3, cl. 2. is tainted with unconscionability, DiMizio v. Romo 756 N.E.2d 1018 (Ind. Ct. App. 2001) Cited 70 times the word "unconscionable" bargain or belief has been regarded as one "such as no [person] in his [or her] senses and not under delusion would make on the one hand, and as no honest and fair [person] would accept on the other" (Hume v United States, 132 U.S. 406, 411), the inequality being "so strong and manifest as to shock the conscience and confound the judgment of any [person] of common sense". Unconscionable conduct is something of which equity takes cognizance, when warranted (see **27 Am Jur 2d, Equity, § 24**, pp 549-550; cf. 2 Pomeroy's Equity Jurisprudence [4th ed], § 873, p 1804).

This claim allows for the creation of territorial courts/administrative tribunals that are not bound by the constitution. Because, an administrative agency's territorial courts/administrative tribunals may not determine constitutional issues.

Art. IV, § 3, cl. 2. Of the U.S. Constitution States: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state".

Where does Art. IV, § 3, cl. 2. Even infer such a right granted from the American people under Art. IV, § 3, cl. 2. it only granted the right: to make all needful rules and regulations, respecting the territory or other property belonging to the United States. And granted nothing in the Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state".

The Authority to Create any Courts or Tribunal is under Art. III Cl.1, not Art. IV, § 3, cl. 2. The absurd claim of the U.S. Supreme Court Alleges that Art. IV, § 3, cl. 2. allows congress to create a special Jurisdiction with which territorial Courts/administrative tribunals, that may not determine constitutional issues, and is not authorized to consider or question the constitutionality of a legislative act or to declare unconstitutional statutes which it was created to administer, including challenges to jurisdiction, as it is a Constitutional issue.

Art. III §1. cl.1 The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Art. IV, § 3, cl. 2. Did not in any way, shape, or form, and cannot be seen in any way, shape, or form, by any logical sein and rational person, as a grant: to Congress; or the States in general: the right to create a special Jurisdiction with which territorial courts/administrative tribunals can be created that may not determine constitutional issues, and is not authorized to consider or question the constitutionality of a legislative act or to declare unconstitutional statutes which it was created to administer, including challenges to jurisdiction, as it is a Constitutional issue. States, etc.; and therefore, Congress and the States, has no authority to create administrative tribunals by municipal or common law for the blocking private rights. Civil Rights Cases, 109 U.S. 3, 3 S. Ct. 18, 27 L. Ed. 835 (1883).

Although some authorities indicate that laches may successfully be asserted as a defense to an action for fraud (**37 Am Jur 2d, Fraud and Deceit, §§ 416-418** and cases

cited therein), is that laches is a purely equitable defense which may not be interposed in an action at law to recover for the tort of fraud.

To escape dismissal of a complaint on qualified immunity grounds, a citizen must (1) allege a violation of a right; that is clearly established at the time of the violation. Evans v. Chalmers, 703 F.3d 636, 646 (4th Cir. 2012) (citation omitted). Government officials performing discretionary functions are entitled to qualified immunity from liability for civil damages to the extent that their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Washington v. Wilmore, 407 F.3d 274, 281 (4th Cir. 2005) (quoting Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982).

The State of Indiana has knowingly and intentionally deprived me, & the people of Indiana of our due process rights. Additionally, the people of Indiana are being denied, & deprived the guaranty of the rights and immunities of a citizen that insures to him or her the privilege of having those rights and immunities judicially declared and protected; under a constructive fraud. See: 16A C.J.S. Constitutional Law § 1207. Fourteenth Amendment Corpus Juris Secundum.

The State of Indiana and its public officers had a duty of care to inform the people; an administrative tribunal is not a court; it is not a part of the judicial branch of government, for purposes of the separation of powers doctrine. So, people could demand their right to him or her the privilege of having those rights and immunities judicially declared and protected.

Further every public officer had a duty of care held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer to inform them of this fraudulent inducement, fraudulent concealment, and constructive fraud.

In tort law, a **duty of care** is a legal obligation, which is imposed on an individual requiring adherence to a standard of reasonable care while performing any acts that could foreseeably harm others. It is the first element that must be established to proceed with an action in negligence. The claimant must be able to show a duty of care imposed by law which the defendant has breached. In turn, breaching a duty may subject an individual to liability. The duty of care may be imposed by operation of law between individuals with no current direct relationship (familial or contractual or otherwise), but eventually become related in some manner, as defined by common law (meaning case law).

Duty of care may be considered a formalization of the social contract, the implicit responsibilities held by individuals towards others within society. It is not a requirement that a duty of care be defined by law, though it will often develop through the duty of care. Goldsberry v. Grubbs (1996) Ind. App., 672 N.E.2d 475, 477

63C Am.Jur.2d, Public Officers and Employees, §247 "As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. Indiana State Ethics Comm'n v Nelson (Ind App) 656 NE2d 1172, reh gr (Ind App) 659 NE2d 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

The State's first significant problem is that the statements relied upon in the cases cited by state are pure and simple dicta, and, therefore, cannot serve as a source

of binding authority as in American jurisprudence. See, e.g., *Alexander v. Sandoval*, 532 U.S. 275, 282, 149 L. Ed. 2d 517, 121 S. Ct. 1511 (2001) (“The Court is bound by holdings, not language.”); *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 379, 128 L. Ed. 2d 391, 114 S. Ct. 1673 (1994) (“It is to the holdings of our cases, rather than their dicta, that we must attend”); *United States v. Dixon*, 509 U.S. 688, 706, 125 L. Ed. 2d 556, 113 S. Ct. 2849 (1993) (quoting *United States Nat. Bank of Or. V. Independent Ins. Agents of Am., Inc.*, 508 U.S. 439, 463, n.11, 124 L. Ed. 2d 402, 113 S. Ct. 2173 (1993),

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This would include Sheriffs and all law enforcement, are bound by the United States Constitution & Constitutional Law.

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